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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES MILSTEAD, et al.,

Plaintiffs,

v.

GENERAL MOTORS LLC, et al.,

Defendants.

Case No. 4:21-cv-06338-JST

**JOINT CASE MANAGEMENT
STATEMENT**

Date: October 18, 2024
Time: 1:30pm
Judge: Hon. Jon S. Tigar

Pursuant to the Court's scheduling order (ECF 255) the parties submit the following joint case management statement in advance of the case management conference scheduled for October 18, 2024.

I. Status of Discovery

1. Plaintiffs served their first set of Requests for Production (RFPs) on GM on November 22, 2023. GM served responses and objections on December 22, 2023. Plaintiffs have

1 reviewed GM's productions in response to the first set of RFPs. The parties will continue to meet
2 and confer about GM's responsive productions, as necessary.

3 2. Plaintiffs served their second set of RFPs on GM on March 18, 2024. GM served
4 its responses on April 22, 2024. After reviewing GM's responses to the second set of RFPs,
5 Plaintiffs served a subpoena on Aptiv, as discussed below. The parties will continue to meet and
6 confer as necessary.

7 3. Plaintiffs served their third and fourth set of RFPs on GM on May 20, 2024. GM
8 served their responses and objections to Plaintiffs' third set of RFPs on July 19, 2024, and their
9 responses and objections to Plaintiffs' fourth set of RFPs on July 26, 2024. The parties are
10 meeting and conferring as necessary to narrow disputes.

11 4. GM made rolling document productions on May 20 and 29, 2024, June 6 and 27,
12 2024, and most recently made a production of approximately 14,500 pages of documents on
13 October 10, 2024; GM will continue to make productions on a rolling basis. To date, GM has
14 produced over 1 million pages of documents responsive to Plaintiffs' RFPs, as well as two hard
15 drives containing over 250 GB of technical data.

16 5. On August 12, 2024, GM provided Plaintiffs with its initial list of ten proposed
17 document custodians. In accordance with the parties' stipulated ESI Protocol, Plaintiffs requested
18 that GM disclose all individuals it has identified as likely to possess relevant knowledge so that
19 the parties may confer as to the most appropriate individuals from whom to collect documents
20 and other data, and stated that a list identifying when and to whom litigation holds were issued in
21 connection with this litigation would be sufficient as to current employees and custodians. *See*
22 ECF 233, §5(a) ("The parties will meet and confer and disclose information about those
23 custodians, custodial and non-custodial data sources, and third parties likely to possess relevant or
24 responsive information in accordance with Fed. R. Civ. P. 26 and the Court's ESI Guidelines and
25 Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information."). GM
26 does not agree that the ESI Protocol or Rule 26 requires it to identify "all individuals" it has
27 identified as possessing relevant knowledge, as doing so would not be proportional to the needs
28 of the case. On October 11, 2024, GM provided a list of 53 individuals (former and current

1 employees) who were sensing or occupant performance engineers during the relevant period or
2 who GM otherwise identified through a reasonable investigation who are either on legal hold or
3 whose data is being preserved. Plaintiffs will evaluate GM's list, and the parties will continue to
4 meet and confer, as necessary.

5 6. Plaintiffs have raised with GM that they seek to take a Rule 30(b)(6) deposition
6 regarding corporate structure, ESI preservation, and data sources to identify relevant custodians,
7 third parties, and learn about the manner and methods used by GM store and maintain ESI. GM
8 reserves all rights to oppose any such deposition. The parties will continue to meet and confer
9 regarding custodial searches. The parties also anticipate further meet and confer efforts will be
10 needed on GM's forthcoming search term disclosure.

11 7. Plaintiffs served their first set of Interrogatories on GM on July 17, 2024. GM
12 requested extensions on the response date, which Plaintiffs granted as a professional courtesy.
13 During the extension period, GM requested, and plaintiffs agreed to meet and confer to address
14 objections to the Interrogatories prior to service of responses and objections. Following those
15 conferrals, GM served its responses and objections on September 13, 2024. Plaintiffs are
16 evaluating GM's responses and objections.

17 8. Plaintiffs served a subpoena to produce documents on third party Aptiv (formerly
18 known as Delphi/Delco) on May 20, 2024. On August 9, 2024, after extensive meet-and-confer
19 efforts, Aptiv produced documents relating to the SDMs supplied by Aptiv/Delphi for 2012
20 model year GM SUVs and trucks. Plaintiffs and Aptiv had negotiated and agreed to use model
21 year 2012 as a test production to inform and narrow, where possible, the scope of future
22 productions for all other model years. Plaintiffs reviewed the August 9, 2024 production to
23 inform their negotiations with Aptiv. Plaintiffs understand from Aptiv that it anticipates making
24 future productions for the remaining model years (1999-2011, 2013-2018) will take several
25 months given the scope of the Class Vehicles, the location of hard-copy and electronic
26 documents, and the availability of technical staff at Aptiv to compile the productions. Based on
27 their review of GM's discovery responses, Plaintiffs have requested that Aptiv prioritize certain
28 vehicle platforms in the order of its forthcoming productions.

1 9. GM reserves all rights with respect to Plaintiffs' subpoena to Aptiv, including
2 because GM has not been included in negotiations between Plaintiffs and Aptiv nor has it been
3 provided an opportunity to give input into any of the alleged agreed to "test productions" or
4 "prioritizations" discussed above. As discussed below, GM anticipates seeking its own non-
5 duplicative discovery from Aptiv.

6 10. GM served its first set of RFPs and Interrogatories as to each named Plaintiff on
7 April 10, 2024. Plaintiffs served their responses and objections to the RFPs on May 10, 2024, and
8 their responses and objections to the Interrogatories on May 24, 2024 (pursuant to a two-week
9 extension, which GM also granted as a professional courtesy). The parties exchanged written
10 correspondence regarding Plaintiffs' responses and objections and held a meet-and-confer call via
11 video conference, where the parties resolved several disputes. Plaintiffs made their initial
12 document production in response to GM's first set of RFPs on July 12, 2024, and made a second
13 production on September 30, 2024. To date, Plaintiffs have produced 63 documents totaling 212
14 pages. Plaintiffs have agreed to provide supplemental interrogatory responses reflecting the
15 resolved disputes referenced above. The parties are currently negotiating custodians and search
16 terms for Plaintiffs, including information and documents related to third-parties Chris Caruso
17 and Sal Fariello.

18 11. Plaintiffs will continue to make productions on a rolling basis.

19 12. The parties have conferred about their anticipated subjects of discovery in this
20 matter. *See* ECF 216 at 6-7 (presenting the parties' positions on anticipated discovery).

21 13. GM anticipates serving additional discovery on and deposing the named Plaintiffs.
22 GM further anticipates serving discovery on and/or deposing certain third parties, including
23 absent class members, Chris Caruso, Sal Fariello, and Aptiv (f/k/a Delphi) and its current or
24 former employees.

25 14. The parties have not otherwise discussed specific discovery that is not yet
26 propounded at this time.

II. Other Issues

15. On September 27, 2024, after extensive meet-and-confer efforts, the parties submitted to the Court a stipulation with proposed order governing privilege logging (ECF 257).

16. On February 6, 2024, this Court entered its Scheduling Order (ECF 220) setting dates through class certification, including a February 28, 2025, deadline for Plaintiffs to file their class certification motion. Considering the current pace of discovery and despite the parties' diligent efforts, Plaintiffs believe they will not be able to meet the deadline for their class certification motion in the current case schedule. GM does not oppose a reasonable extension of the current schedule. The parties will confer about a proposal to present to the Court for a proposed extension of the current case schedule for the Court's consideration.

17. An extension of the deadline is necessary because, while the parties have been actively engaged in the discovery and meet-and-confer process, the pace has been slower than anticipated due to several factors. This includes the roughly 20-year range and scores of make-and model Class Vehicles implicated in Plaintiffs' operative complaint, third-party discovery and resulting negotiations discussed above, and as alleged in Plaintiffs' complaint, the complex, technical nature of the alleged SDM Calibration Defect, which GM believes cannot be fairly described as one defect. As related above, the parties are in the process of negotiating GM's and plaintiffs' ESI custodians, and further meet and confers will be needed on the search terms GM and plaintiffs will use to review the ESI corpus for production consistent with the stipulated ESI Protocol. Plaintiffs and GM then anticipate review and analysis of those documents once produced, and for further fact discovery, depositions, and expert work to follow therefrom.

18. By November 8, 2024, the parties will submit to the Court: (a) a joint statement with a proposed, revised case schedule through class certification or (b) if the parties are unable to reach agreement, the parties may submit competing motions or a unilateral motion for an extension of the current case schedule.

19. The parties do not have other matters or disputes requiring the Court's attention at this time.

1 Dated: October 11, 2024

Respectfully submitted,

2 By: /s/ Roland Tellis

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ATTESTATION (CIVIL LOCAL RULE 5-1(i)(3))

In accordance with Civil Local Rule 5-1(i)(3), I attest the concurrence in the filing of this document has been obtained from the signatories.

Dated: October 11, 2024

/s/ Roland Tellis

Roland Tellis

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 11, 2024, a true and correct copy of the foregoing was electronically filed and served electronically via the Court's CM/ECF system, which will automatically serve notice to all registered counsel of record.

/s/ Roland Tellis
Roland Tellis